

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

**PETITION FOR WAIVER OF DELL TELEPHONE COOPERATIVE**

**COMMENTS OF**

**KIESLING ASSOCIATES LLP**

**INTRODUCTION**

Kiesling Associates, LLP (Kiesling) hereby submits its Comments to the Federal Communications Commission (Commission) in response to the Commission’s request for comments regarding the Petition for Waiver of Universal Service Rules (Petition) filed by Dell Telephone Cooperative (Dell Telephone or the Company).

Kiesling is an accounting and consulting firm established in 1952. Kiesling provides services to over 200 utilities, including: over 150 Rural Utilities Service borrowers, numerous rural incumbent local exchange carriers, numerous wireless providers, competitive local exchange providers, video operators, and electric utilities. Kiesling has five offices in the

Midwest and West and has clients in over 20 states. In 2011, Kiesling was named a 2011 Best of the Best Firms by Inside Public Accounting.

## **I. SUMMARY**

Kiesling supports Dell Telephone's Petition for Waiver of the Commission rules 1) limiting support to \$250 per line per month for High Cost Support, 2) limiting reimbursable capital and operating expenses for High Cost Loop Support (HCLS), and 3) limiting recovery of corporate operations expense for HCLS and Interstate Common Line Support (ICLS), as updated and extended. Kiesling supports Dell Telephone's Petition for Waiver of the Commission's rules.

Kiesling supports the FCC's goal of fiscal responsibility<sup>1</sup> (reducing waste and inefficiencies) in the USF system. However, even the Commission itself has recognized these rule changes may adversely impact an individual company and, as such, established a waiver procedure for any such company adversely impacted<sup>2</sup>. Dell Telephone meets the criteria outlined in the FCC's USF Transformation Order waiver process<sup>3</sup>; the Company needs additional support for customers to continue receiving voice services throughout its entire serving area (except a few small corridors along major highways), there is no terrestrial alternative, the Company projects to default on existing loans to RUS in 2015, and also to become insolvent by 2016.

Dell Telephone is a small rate of return rural incumbent local exchange carrier (RLEC) that serves some of the most remote and impoverished areas in Texas and New Mexico. The Company is the only service provider for voice and broadband services, excluding some limited wireless voice and 3G data services along the major highways in its serving area. In Dell's Petition, it states the RLEC provides voice and broadband services to 10,948 square miles in some of the poorest counties in America. The Company's density is extremely low at 0.08 customers per square mile. Furthermore, the Company's extremely difficult terrain also increases the cost of providing service to customers.

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<sup>1</sup> *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, FCC 11-161, ¶11 (rel. Nov.18, 2011) ("*USF Transformation Order*")

<sup>2</sup> USF Transformation Order, ¶32 and ¶539

<sup>3</sup> USF Transformation Order, ¶540

Based on the evidence provided in Dell Telephone's Petition, its customers will be at risk of losing both voice telephony services and broadband services contrary to the Commission's own stated goal<sup>4</sup> and Section 254. Furthermore, in Dell Telephone's Petition, the Company provided its financial projections for 2013 as a net loss and that it will deplete cash reserves by 2015, followed by insolvency in 2016. Additionally, Dell Telephone will be in violation of its loan covenants in 2013, likely making it impossible to secure additional loans. For these three reasons, insolvency of Dell Telephone by 2016, violation of loan covenants along with the inability to repay said loans, and no other telecommunications provider serving the vast majority of Dell Telephone's serving area, including key national security interests and anchor institutions, the Commission should promptly grant Dell Telephone's Petition for Waiver.

As pointed out by the National Telecommunications Cooperative Association (NTCA), the Commission has not conducted testing or released results of its testing of the regression analysis-based limits on operating and capital costs validity and volatility, nor has the Commission addressed the numerous statistical and data related issues that set the limits on individual companies<sup>5</sup>. Financial harm to RLECs, such as Dell Telephone, and ultimately to the rural customers the RLECs serve based on an untested methodology and one that even this Commission admits is plagued with inaccurate data<sup>6</sup> is against the public interest.

Dell Telephone budget forecasts show by 2015 it will be forced to cease operations. Currently no other provider is serving the residential, business, and governmental agencies, including those agencies that provide national security and border patrol functions, throughout its serving area. Additionally, these customers are likely to lose wireless services as Dell Telephone provides the wireless backhaul necessary to make wireless services function. These customers will be the parties most harmed by the Commission's new rules having no access to voice, broadband and likely wireless services.

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<sup>4</sup> USF Transformation Order, ¶¶46, ¶¶49, and ¶¶51

<sup>5</sup> See NTCA *Ex Parte* Notice, filed August 2, 2012

<sup>6</sup> *Connect America Fund, High-Cost Universal Service Support*, WC Docket No. 10-90 & WC Docket No. 05-337, Order, DA 12-646 (rel. Apr. 25, 2012) (adopting methodology to limit reimbursable capital and operating expenses for HCLS), ¶¶27-29

## II. CONCLUSION

Dell Telephone has provided the evidence necessary for the Commission to review its Petition and to grant its Petition for Waiver. Given Dell Telephone's financial circumstances, the Commission should act immediately in order to avoid further financial harm to Dell Telephone and to ensure voice and broadband services are available to the residential, business, and governmental agencies, including those agencies that provide national security and border patrol functions, customers in its serving area.

Those customers will ultimately be the ones, which the Commission will harm should it choose not to grant the Waiver or not act timely enough to ensure Dell Telephone can continue to provide voice and broadband services to one of the most impoverished and difficult areas to serve in the continental United States.

Respectfully Submitted,

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